

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**DESEAN HILL,**

**Plaintiff,**

**v.**

**9:17-CV-0031 (BKS/TWD)**

**NURSE KHODENKO, *Shawangunk  
Correctional Facility,***

**Defendant.**

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**Appearances:**

Desean Hill  
14-A-0857  
Great Meadow Correctional Facility  
Box 51  
Comstock, NY 12821  
Plaintiff, pro se

Katie E. Valder, Esq.  
Hon. Eric T. Schneiderman  
Office of New York State Attorney General  
The Capitol  
Albany, NY 12224  
Attorney for Defendant

**Hon. Brenda K. Sannes, United States District Judge:**

**MEMORANDUM-DECISION AND ORDER**

Plaintiff Desean Hill, a New York State inmate, commenced this civil rights action asserting claims under 42 U.S.C. § 1983 arising out of his incarceration at the Shawangunk Correctional Facility. Dkt. No. 1. On July 31, 2017, Defendant filed a motion to dismiss under Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief may be granted. Dkt. No. 18. Plaintiff did not respond to the motion even though he was advised of his opportunity to

do so. Dkt. No. 20. This matter was referred to United States Magistrate Judge Thérèse Wiley Dancks who, on October 19, 2017, issued a Report-Recommendation and Order recommending that Defendant's motion to dismiss be granted and that Plaintiff's complaint be dismissed with leave to amend. Dkt. No. 21. Magistrate Judge Dancks advised the parties that, under 28 U.S.C. § 636(b)(1), they had fourteen days within which to file written objections to the report, and that the failure to object to the report within fourteen days would preclude appellate review. Dkt. No. 21, at 8. No objections to the Report-Recommendation have been filed.

As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228-29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee's note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts it in its entirety.

For these reasons, it is

**ORDERED** that the Report-Recommendation (Dkt. No. 21) is **ADOPTED** in its entirety; and it is further

**ORDERED** that Defendant's motion to dismiss (Dkt. No. 18) is **GRANTED** and Plaintiff's complaint is **DISMISSED, WITH LEAVE TO AMEND** and it is further

**ORDERED** that Plaintiff is granted leave to file an amended complaint within thirty (30) days from the date of this Order; and it is further

**ORDERED** that if Plaintiff fails to file an amended complaint within thirty (30) days from the date of this Order, the Clerk is directed to close this case without further Order of the Court; and it is further

**ORDERED** that the Clerk serve a copy of this Order upon the parties in accordance with the Local Rules.

**IT IS SO ORDERED.**

Dated: November 28, 2017  
Syracuse, New York

A handwritten signature in black ink, reading "Brenda K. Sannes", written over a horizontal line.

Brenda K. Sannes  
U.S. District Judge